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**JAN 20 2006**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:	)	Before the Examiner:
Charles L. Branch et al.	)	Pedro Philogene
	)	
Application Serial No.: 09/870,023	)	Group Art Unit: 3731
	)	
Filed: May 30, 2001	)	Ref. No.: MSDI-213/ PC365.05
	)	
INTERBODY FUSION GRAFTS	)	January 20, 2006
AND INSTRUMENTATION	)	

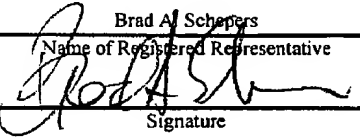
**Via Facsimile Transmission: 571-273-8300**

**PETITION FOR WITHDRAWAL FROM ISSUE UNDER 37 CFR §1.313(c)(2)**  
**TO PERMIT CONSIDERATION OF AN AMENDMENT TO CORRECT**  
**AN INFORMALITY IN THE PRIORITY CLAIM AND TO PERMIT**  
**CONSIDERATION OF AN INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The Applicant hereby petitions that the above-captioned application be withdrawn from issue in favor of a Request for Continued Examination submitted under 37 CFR §1.114 filed concurrent with this petition. The Applicant has submitted the requisite fee of \$790.00 under 37 CFR 1.17(e) for the filing of the RCE, and the requisite fee of \$130.00 under 37 CFR 1.17(h) for the filing of the petition. Please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-8300 on:	
January 20, 2006	
Date of Transmission	
Brad A. Schepers	
Name of Registered Representative	
	
Signature	
January 20, 2006	
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Inventors: Branch et al.  
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The Applicant submits the following:

1. A Notice of Allowance was issued by the U.S. Patent and Trademark Office on September 16, 2005.
2. An Amendment was filed with the U.S. Patent and Trademark Office on September 26, 2005 to correct an apparent informality in the specification of the subject application relating to the priority claim.
3. The issue fee was paid on December 15, 2005.
4. Upon a review of the application file, it was discovered that the Amendment filed with the U.S. Patent and Trademark Office on September 26, 2005 was apparently not entered or considered in the subject application.
5. Filed concurrently herewith is:
  - a. the requisite petition fee of \$130.00 under 37 CFR 1.17(h);
  - b. a Request for Continued Examination submitted under 37 CFR §1.114 with the requisite filing fee of \$790.00 under 37 CFR 1.17(e);
  - c. an Amendment to correct the apparent informality in the specification of the subject application relating to the priority claim;
  - d. an IDS for consideration in the subject application.

The Applicant respectfully requests granting of this petition to withdraw the subject application from issue, entry of the Request for Continued Examination, and consideration of the accompanying Amendment and IDS.

Consideration and allowance of the subject application, including pending claims 63-106, is requested. Timely action towards a Notice of Allowability is hereby solicited. The Examiner is encouraged to contact the undersigned by telephone to resolve any outstanding matters concerning the subject application.

Respectfully submitted

By: 

Brad A. Schepers

Reg. No. 45,431

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